

## **REMARKS**

Claims 1-19 were examined and reported in the Office Action. Claims 1-19 are rejected. Claims 1-19 are amended. Applicant's amendments to claim 1 are supported in the original specification on page 14, lines 21-24. No new matter is added. Claims 1-19 remain.

Applicant requests reconsideration of the application in view of the following remarks.

### **I. Claim Objections**

It is asserted in the Office Action that claims 4-19 are objected to under 37 CFR 1.75(c) as being in improper form. Applicant has amended the claims to overcome the 37 CFR 1.75(c) objections.

Accordingly, withdrawal of the claim objections for claims 4-19 are respectfully requested.

### **II. 35 U.S.C. § 112**

It is asserted in the Office Action that claims 1-19 are rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claims the subject matter which applicant regards as the invention.. Applicant has added the functional term "creation" in front of the term "means" to overcome the 35 U.S.C. § 112, second paragraph rejection.

Accordingly, withdrawal of the 35 U.S.C. § 112, second paragraph objection for claims 1-19 are respectfully requested.

### **III. 35 U.S.C. § 102(b)**

It is asserted in the Office Action that claims 1, 8 and 10-19 are rejected in the Office Action under 35 U.S.C. § 102(b), as being anticipated by U. S. Patent No. 6,365,010 issued to

Hollars ("Hollars"). Applicant respectfully traverses the aforementioned rejection for the following reasons.

According to MPEP §2131,

'[a] claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference.' (Verdegaal Bros. v. Union Oil Co. of California, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987)). 'The identical invention must be shown in as complete detail as is contained in the ... claim.' (Richardson v. Suzuki Motor Co., 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989)). The elements must be arranged as required by the claim, but this is not an ipsissimis verbis test, *i.e.*, identity of terminology is not required. (In re Bond, 910 F.2d 831, 15 USPQ2d 1566 (Fed. Cir. 1990)).

Applicant's amended claim 1 contains the limitations of

[a] device for confinement of plasma in a chamber comprising creation means for creating a magnetic field, said creation means comprising a series of permanent magnets capable of creating a magnetic field presenting an alternating multipole magnetic structure to the plasma, wherein the magnets are capable of confining the plasma in a large volume, the magnets being discontinuously distributed around the volume, and wherein the magnets are arranged inside the chamber, at a distance from walls of the chamber held in place by support rods, the support rods extending along the axis of magnetisation of said magnets and being arranged so that the support rods are centred on the poles of the permanent magnets, such that the walls are outside an effective influence area of the magnets.

Hollars discloses a device including creation means for creating a magnetic field 52, the creation means includes a series of permanent magnets 46a and 46b (see Hollars, Fig. 3a). The magnets are capable of creating a magnetic field 52 presenting an alternating multi-pole magnetic structure to the plasma. The magnets are discontinuously distributed around the volume and are arranged inside the chamber 2 at a distance from the wall of the chamber (see Hollars, Fig. 1a). Applicant, however, respectfully disagrees with the assertion in the Office Action that the magnets in Hollars are supported by support rods, the support rods extending along the axis of magnetisation of the magnets. There are no embodiments in Hollars where the

magnets 46a and 46b are supported by rods. The magnets 46a and 46b are supported by a backing plate 45, which does not extend along the axis of magnetisation of the magnets. Additionally, structure 29 or 30 of Fig. 2b in Hollars can not be interpreted as rods extending along the axis of magnetisation of the magnets. Further, neither the backing plate 45 nor structure 29 or 30 is arranged so that it is centered on the poles of the permanent magnets.

Moreover, as recited in Applicant's amended claim 1 and on page 14, lines 21-29 of the specification, it is explained that the permanent magnets are fixed at a distance from the wall of the chamber by the support rods so that the effect of the walls being outside the effective influence area of the magnets enables charged particles to oscillate freely without obstacles in the magnetic field lines (see Applicant's Figs. 8 and 10). Distinguishable, it can be clearly seen from Figs. 3a and 3b of Hollars that the magnetic field lines 52 cross obstacles, such as the plate 58 or the structure 29. Therefore, in Hollars, particles which may be trapped on the magnetic field lines 52 will meet the obstacles 58 and/or 29 and cannot oscillate freely as it is the case with Applicant's claimed invention.

Applicant's distinctive technical effect is due to the difference of structure from Hollars because the magnets of Hollars are not held in place by support rods, where the support rods extend along the axis of magnetisation of the magnets and are arranged so they are centered on the poles of the permanent magnets, the magnets being thus arranged inside a chamber at a distance from the walls of the chamber.

That is, Hollars does not teach, disclose or suggest Applicant's amended claim 1 limitations of

wherein the magnets are arranged inside the chamber, at a distance from walls of the chamber held in place by support rods, the support rods extending along the axis of magnetisation of said magnets and being arranged so that the support rods are centred on the poles of the permanent magnets, such that the walls are outside an effective influence area of the magnets

Therefore, since Hollars does not teach, disclose or suggest all of Applicant's amended claim 1 limitations, Applicant respectfully asserts that a *prima facie* rejection under 35 U.S.C. § 102(c) has not been adequately set forth relative to Hollars. Thus, Applicant's amended claim 1

is not anticipated by Hollars. Additionally, the claims that directly or indirectly depend on claim 1, namely claims 8 and 10-19, are also not anticipated by Hollars for the same reason.

Accordingly, withdrawal of the 35 U.S.C. § 102(b) objection for claims 1, 8 and 10-19 are respectfully requested.

**IV. 35 U.S.C. § 103(a)**

It is asserted in the Office Action that claims 2-7 and 9 are rejected in the Office Action under 35 U.S.C. § 103(a), as being unpatentable over Hollars. Applicant respectfully traverses the aforementioned rejection for the following reasons.

According to MPEP §2142

[t]o establish a prima facie case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, and not based on applicant's disclosure. (*In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991)).

Further, according to MPEP §2143.03, “[t]o establish prima facie obviousness of a claimed invention, all the claim limitations must be taught or suggested by the prior art. (*In re Royka*, 490 F.2d 981, 180 USPQ 580 (CCPA 1974).” “*All words in a claim must be considered in judging the patentability of that claim against the prior art.*” (*In re Wilson*, 424 F.2d 1382, 1385, 165 USPQ 494, 496 (CCPA 1970), emphasis added.)

Applicant’s claims 2-7 and 9 either directly or indirectly depend on amended claim 1. As asserted above in section III, Hollars does not teach, disclose or suggest Applicant’s amended claim1 limitations of

wherein the magnets are arranged inside the chamber, at a distance from walls of the chamber held in place by support rods, the support rods extending along the axis of magnetisation of said

magnets and being arranged so that the support rods are centred on the poles of the permanent magnets, such that the walls are outside an effective influence area of the magnets

Since Hollars does not teach, disclose or suggest all the limitations of Applicant's amended claim 1, as listed above, Applicant's amended claim 1 is not obvious over Hollars in view of no other prior art since a *prima facie* case of obviousness has not been met under MPEP §2142. Additionally, the claims that directly or indirectly depend from amended claim 1, namely claims 2-7 and 9, would also not be obvious over Hollars in view of no other prior art for the same reason.

Accordingly, withdrawal of the 35 U.S.C. § 103(a) objection for claims 2-7 and 9 are respectfully requested.

### CONCLUSION

In view of the foregoing, it is submitted that claims 1-19 patentably define the subject invention over the cited references of record, and are in condition for allowance and such action is earnestly solicited at the earliest possible date. If the Examiner believes a telephone conference would be useful in moving the case forward, he is encouraged to contact the undersigned at (310) 207-3800.

If necessary, the Commissioner is hereby authorized in this, concurrent and future replies, to charge payment or credit any overpayment to Deposit Account No. 02-2666 for any additional fees required under 37 C.F.R. §§1.16 or 1.17, particularly, extension of time fees.

Respectfully submitted,

BLAKELY, SOKOLOFF, TAYLOR, & ZAFMAN LLP

Dated: May 4, 2007

By: 

Steven Laut, Reg. No. 47,736

12400 Wilshire Boulevard  
Seventh Floor  
Los Angeles, California 90025  
(310) 207-3800

### **CERTIFICATE OF TRANSMISSION**

I hereby certify that this correspondence is being submitted electronically via EFS Web on the date shown below to the United States Patent and Trademark Office.

  
Jean Svoboda

Date: May 4, 2007